IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 11565 of 2003

Between:

B.Rajeshwari w/o Late B.Venkata Ramulu
R/o 3-57/1., Seshadrinagar., Mahabubnagar.

..... PETITIONER

AND

1. The Divisional Electrical Enginee, A.P.C.P.D.C.L.,Mahabubnagar.
2. The Superintending Engineer., Operation., Circle.,
A.P.C.P.D.C.L.,Mahabubnagar.
3.The General Manager (T & HRD) Central Power Distribution Co.of A.P.Ltd
Redhills., Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more in the nature of Mandamus declaring that the petitioner is entitled to be considered for compassionate appointment consequent on the death of her husband Venkata Ramulu, while working as village Electricity worker, Koilkonda, Mahabubnagar District on 18-3-1995 with all consequential benefits by holding the action of the respondents in not considering my claim for compassionate appointment so far under the guise of correspondence between the respondents as is clear from Memo No.GM (P & HRD)/ASHI/PO-II/3/983-2000 dated 20-11-2001 issued by the General manager, (P & HRD), Central Power Distribution Company of A.P.Limited, Redhills, Hyderabad is as illegal, arbitrary, discriminatory and sub versive of Articles 14,16 and 21 of the Constitution.

Counsel for the Petitioner: MR.D.LINGA RAO

Counsel for the Respondents:MR.S.KISHORE

The Court made the following:

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ORDER:

This writ petition is filed to issue a writ of mandamus declaring that the petitioner is entitled to be considered for compassionate appointment consequent on the death of her husband while working as Village Electricity Worker, Koilkonda, Mahabubnagar District with all consequential benefits.

The case of the petitioner is that her husband while in service died due to fatal accident on 18-3-1995 and her husband left no other properties and the family is in a distressed condition. Then she made a representation to provide employment on compassionate grounds but no action has been taken so far. Hence, the present writ petition.

The respondents filed their counter affidavit stating that the petitioner's husband was appointed by the Gram Panchayat and not appointed by the Board and without admitting legal liability, the petitioner received exgratia amount of Rs.10,000/- and as per the Board proceedings even contingent employees, NMRs or casual employees are not eligible for employment under the scheme and therefore, the petition is liable to be dismissed.

The learned counsel for the petitioner contended that since the petitioner's husband was appointed by the Divisional Electrical Engineer, Operation, both the Divisional Electrical Engineer, Operation, and the Gram Panchayat are duty bound to give appointment to the petitioner on compassionate grounds and he relied upon a decision reported in 2004 (1) ALT 476. He further contended that other persons who appointed along with the petitioner's husband were regularized. Therefore, in

those circumstances, the petitioner could be the employee of the respondents-Corporation during the course of time. Hence, the petitioner is entitled for appoinment on compassionate grounds.

On the other hand, the learned standing counsel appearing for the respondents vehemently contended that as per Board proceedings, even NMRs, contingent employees, or casual labour are not eligible for appointment on compassionate grounds and since the petitioner was appointed by the Gram Panchayat and was not an employee of the Corporation, there are no grounds to grant any direction.

The learned counsel for the petitioner placed reliance on a decision reported in Divisional Electrical Engineer, Operation, A.P.S.E.B., Jagithyal v. Siripurapu Vijaya, wherein it is held:

> *"What emerges from the scheme is that such employees are the liaison employees between the Gram Panchayats and the appellant. It follows, therefore, that such employees have their employment traced to dual authorities i.e. the concerned Gram Panchayat as well as the appellant themselves, one an appointing authority and another their pay master. And, the employees are discharging the duties attributable to the pay master."*

The above decision has no application to the facts of this case, in view of the fact that though the selection order was issued by the Divisional Electrical Engineer dated 14-8-1987, it is made clear that the petitioner's husband will be employee of the sponsoring panchayat after appointment by the Panchayat and he will be given a grant-in-aid of Rs.150/- per month and the husband of the petitioner will be under the direct control of concerned Sarpanch on relief from the training. So as seen from the proceedings, it is clear that the respondents launched a scheme for giving training to the selected candidates. This cannot be an appointment order. On the other hand, as per this order, the petitioner's husband has been selected as Village Electricity Worker and also to undergo training in the institute, the appointment order shall be issued by the Panchayat and payment will be made by the Panchayat towards salary. Therefore, under any imagination, it cannot be said that the

petitioner's husband was employee of the respondents-corporation. The proceedings filed by the petitioner go to show that the respondents have undertaken the process of selection under Special Employment-Cum-Training Scheme. As per B.P.Ms.No.119, dated 10-02-1982 issued by erstwhile APSEB now adopted by APCPDCL, it is very clear that dependent employees borne on contingent establishment, NMRs or Casual Labour are not eligible for employment under this scheme. The said fact has not been disputed or denied in the reply affidavit filed by the petitioner. Therefore, the question of consideration for compassionate appointment does not arise contrary to the rules governing the appointment on compassionate grounds. The learned counsel has also placed reliance on a decision reported in 1996 (5) SLR page 277 and contended that as per the said decision, a person is eligible for regularization even though not regularized, he can be given appointment. The contention of the petitioner is that the persons who are appointed alongwith the petitioner's husband regularized in the respondents-Corporation and therefore, the petitioner's case may be considered. But this court unable to accept the same because by the date of the death of the deceased, he was not employed by the respondents-Corporation and his services were not regularized. Simply because some other persons who were appointed along with the petitioner' husband are regularized, that does not mean in future course of time, if the accident had not been taken place, the services of petitioner's husband also would have been regularized. Since, the scheme does not provide for appointment of a person, on compassionate grounds, who is not employee of the respondents-Corporation, the question of consideration for appointment on compassionate grounds does not arise.

The writ petition is accordingly dismissed. No order as to costs.

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K.C.BHANU,J

20-06-2005

Stp

To:

1. The Divisional Electrical Engineer, A.P.C.P.D.C.L.,Mahabubnagar.
2. The Superintending Engineer, Operation., Circle., A.P.C.P.D.C.L.,Mahabubnagar.
3.The General Manager (T & HRD) Central Power Distribution Co.of A.P.Ltd Redhills., Hyderabad.

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